

The Leesburg Planning Commission met on Thursday, July 7, 2005 in the Council Chambers, 25 West Market Street, Leesburg, Virginia. Staff members present were Susan Swift, Wade Burkholder, Brian Boucher and Linda DeFranco

CALL TO ORDER

The meeting was called to order at 7:00pm by Chairman Vaughan.

PLEDGE OF ALLEGIANCE AND ROLL CALL

Present: Chairman Vaughan
Commissioner Barnes
Commissioner Hoovler
Commissioner Kalriess
Commissioner Wright
Mayor Umstattd

Commissioner Bangert was absent

Chairman Vaughan referenced the terrorist attacks in London and expressed concern and hope that the situation would abate in the near future.

Next Chairman Vaughan referenced Commissioner Chuck Jones who died in a car accident on June 30. He recapped Mr. Jones' service to the Planning Commission and extended sympathy to the Jones Family. There was a moment of silence in honor of Commissioner Jones.

ADOPTION OF AGENDA

Commissioner Wright moved to adopt the agenda with the following change: Bring the Public Hearing forward to precede the Zoning application, and delete the Zoning Amendment on Noise Limitations from the Agenda since this was approved at the last meeting.

Motion: Wright
Second: Kalriess
Carried: 5-0

APPROVAL OF MINUTES

Commissioner Hoovler moved to adopt the minutes of the June 2, 2005 meeting as presented.

Motion: Hoovler
Second: Kalriess

Carried: 4-0

Chairman Vaughan abstained from the vote since he was not at the June 2 meeting.

CHAIRMAN'S STATEMENT

Chairman Vaughan reviewed the agenda and advised those people present for the public hearing portion of the meeting, that they would be allowed five minutes to speak on the public hearing agenda items.

PETITIONERS

None

PUBLIC HEARING

Chairman Vaughan stated that he will consider both the Proffer Amendment and the Special Exception together

Commissioner Kalriess excused himself from the hearing since he has business interest in the Cornerstone Chapel Daycare Expansion.

Robert Sevila, representative for the applicant came forward. He took a minute to remember Commissioner Jones.

The proffer amendment is a request to modify the setback from 25 feet to 20 feet. He then introduced Vic Schmeltz, minister of Cornerstone Chapel.

Brian Boucher, Zoning Administrator, came forward to describe the proffer amendment and special exception being requested in this application. Basically Cornerstone Chapel is requesting a special exception to add 3,600 square feet of classroom space to an existing building. This is intended to decrease the current size of Sunday school classes. The proffer amendment, as stated by Mr. Sevila, is to modify the setback from 25 feet to 20 feet. Mr. Boucher went on to say that this request is consistent with policies of the Town Plan, there is no anticipated traffic impact and staff recommends approval subject to the following conditions: Substantial Conformance with the special exception plat; no modifications granted or implied to the requirements in the Subdivision and Land Development Regulations, Zoning Ordinance or DCSM; a landscaping plan demonstrating compliance with Zoning Ordinance requirements; play area limited to no more than 30 children at any one time; and the building shall be constructed in conformance with the building plans. Approval of the proffer amendment is also recommended by staff.

Vic Schmeltz, administrative pastor of Cornerstone Chapel, came forward to explain that this expansion is being driven by the number of children active in the Sunday school program. They want to expand classrooms for middle and high school students.

Chairman Vaughan closed the public hearing at this time and noted that this will remain open for the next ten days for additional comments. Robert Sevila thanked the staff for their efforts on this application and for catching the proffer amendment requirement.

Commissioner Barnes stated that he was pleased with this application and said he is ready to vote on this tonight

Commissioner Wright had no questions and complimented staff for waiving the traffic study.

Mayor Umstattd asked if they were opening the door to future requests for expansion by other applicants based on the proffer amendment. Mr. Boucher said he thought it would be unlikely.

Commissioner Hoovler also thanked staff and asked where the sheds were going to be located? Mr. Boucher pointed out the location on the plat. Mr. Hoovler asked if the screening already in place was being replaced. Mr. Boucher said that some of it will be replaced since it has died and the landscaping in general will be updated when the building is finished.

Commissioner Wright moved to suspend the Bylaws to vote on this application tonight.

Motion: Wright
Second: Barnes
Carried: 4-0

Commissioner Hoovler moved to approve TLZM2004-0007, Cornerstone Chapel Daycare Expansion Proffer Amendment

Motion: Hoovler
Second: Wright
Carried: 4-0

Commissioner Wright moved to approve TLSE2004-0030, Cornerstone Chapel Daycare Expansion Special Exception, contingent upon the conditions set out in the staff report.

Motion: Hoovler
Second: Barnes
Carried: 4-0

NOTE: Commissioner Kalriess did not vote on the Cornerstone Chapel applications.

ZONING

Wade Burkholder, Senior Planner, came forward to say that several conditions had been revised, condition #3 stating that parking will occur only on the paved area, the cars will be moved off the gravel. Condition #5, landscaping, the Planning Commission will permit waiver. Condition #4, frontage improvements, remain the same calling for safe pedestrian access. Today a variation request was filed and will come to the Commission at their next meeting. Lastly a timeframe for lease termination needs to be set. Currently it is a month to month agreement.

Chairman Vaughan asked where the application stands at this time.

Commissioner Barnes said he was ready to vote on this.

Commissioner Wright asked about the terms of the lease. Mr. Sevila replied that it is currently a month to month. Mr. Wright asked about the frontage improvements and what would govern this area if these were stricken. Mr. Boucher said the use of the property would govern this. Mr. Wright said there was much discussion about “temporary” use. Most temporary uses are very short term, so should this application have a “sunset” clause. Mr. Boucher thought this would be very good language to add to the application.

Commissioner Kalriess asked what would happen to the frontage improvements if this language were used? What would happen in two years? Mr. Boucher said with the sunset clause, they would be in violation of the zoning ordinance. There would not be any automatic renewal review. Mr. Kalriess asked for a definition of variance and variation. Mr. Boucher explained that a variance can be granted by the Board of Zoning Appeals, a variation falls under the Subdivision and Land Development regulations. It allows the Planning Commission to determine whether improvements are required in a particular case.

Commissioner Barnes asked if number 7 is left in as is, can they come back for an extension after two years. Mr. Boucher said that they need to reapply.

Robert Sevila stated that the variation was actually sent in on June 27, however the statement of justification was filed today. He went on to say that this area has no foot traffic per se, and the only sidewalk in the area is near the storage units. He doesn't think it makes sense to put a sidewalk in for no pedestrians. He would like to be excused from the public improvements, and would like the commission to reconsider the two year “sunset” language. The way it is written it sounds like everything ends in two years, resulting in making it necessary to go through the expense of reapplication. He would like to suggest a built in condition saying they have to come back and make a representation that there were no significant changes. Attach the conditions to the extension request.

Brian Boucher said that he would like to research this to see how this has worked in other jurisdictions. Mr. Sevila said that if the conditions are complied with and the scope of use remains the same then continuation should be granted.

Commissioner Wright stated that he was losing some comfort with this change. He would rather raise the two year limit to three years. Can they just change the date and resubmit the application? Let's not create new case law and complicate things. Stick to the common sense rule.

Chairman Vaughan said this process needs documentation. Commissioner Kalriess thought our zoning ordinance does not have a renewal clause in the special exception section. Susan Swift said we do have this covered, and that the special exception runs with the land. Ms. Swift went on to say this use is not described under the current zoning ordinance. Mr. Kalriess said they should sunset this after four years. He is not concerned about the frontage improvements at this time, they will come in time.

Commissioner Vaughan said that this should be documented in a motion this evening. Susan Swift said they should not document a specific application for future reference. This is not a formal process so it should not dictate anything. From a zoning perspective this application should not be extended beyond two years. This could set a precedent that would open the door to let other businesses get away with reducing proffers. The town did not stretch this process out, there was significant lag time in placing the application. We need to be very careful not to set a precedent. Staff needs to keep uses and the improvements required according to current standards.

Commissioner Barnes asked Mr. Kalriess if he was asking for four years, however, after hearing the comments by Ms. Swift, two years seems reasonable. Mr. Barnes asked if three years would be livable. Robert Sevila said they would be happy with that.

Commissioner Wright said we would be treating this use more favorably than the commuter lot. Commissioner Hoovler said they need to listen to Susan Swift's comments and not try to set a precedent.

Mr. Sevila said that this is in fact a temporary use, no matter how the commission is redefining it. He is asking for a special exception to do outdoor storage on a lot zoned to hold outdoor storage. He doesn't feel that they are creating precedent. He is hopeful that he will not have to do a traffic analysis. Every single case is not always the best idea for a traffic study. Often there are areas that we know will create no traffic impact, yet requiring a costly study does not make sense. Commissioner Kalriess agreed with Mr. Sevila and went on to say that he didn't think this would set a precedent. Susan Swift said the precedent is the concept without appropriate improvements. If this were denied tonight, what would he do? Where do you draw the line? Private uses could come in and refuse improvements, they could offer half the parking, smaller lot sizes, half the buffering, half the landscaping in order to save money. The compromise on this should be the two years, otherwise this use could go on for a long time.

Commissioner Wright said any month to month lease is not wise business practice. Two years is not unreasonable. Putting no limit on the time would open this up for further exceptions.

Mr. Sevila said he is not sure what is being compromised, he merely asked for a special exception. Let this run with the user, not the land. The only unusual aspect on this application is putting the sunset clause in. Mr. Sevila asked why they didn't just consider making this a permanent parking lot. He then brought up the fact that the entire process is time consuming and expensive. It's only not a permanent use because he is not asking for a permanent use.

Commissioner Wright moved to recommend approval of TLSE2003-0007 based on the conditions outlined in the staff report with the following modifications: that number 4 be struck; number 7 "temporary use" be replaced by "sunset provision"; and the terminology "any future changes shall be noticed to and reviewed by the zoning administrator." be added

Motion: Wright

Second: Barnes

Carried: 5-0

Commissioner Kalriess asked to go on record saying that this was by all intents and purposes a typical special exception.

SUBDIVISION AND LAND DEVELOPMENT

None

COMPREHENSIVE PLANNING

None

COUNCIL AND REPRESENTATIVE'S REPORT

None

STAFF AND COMMITTEE REPORTS

Commissioner Wright went to the Town Council worksession on the Town Plan and the Town Council meeting on Tuesday. The Council endorsed the subcommittee to meet with the Board of Supervisors regarding joint planning. The subcommittee will also meet with the County Planning Commission on CPAMS.

Susan Swift reviewed the key dates on major developments.

Commissioner Wright asked about the Village at Leesburg interchange and what modifications were being made. Susan Swift responded that they split out the interchange from the rest of the application to allow it to move forward. The modifications requested would not affect this interchange.

OLD BUSINESS

None

NEW BUSINESS

Commissioner Wright asked about the interchange amendment, since they denied the other parts of the application. They did support the change of the interchange. Does the staff need to prepare a resolution? Susan Swift said this was specified on the action that the Commission was in favor of the one issue, the diamond interchange.

Mr. Wright went on to ask about scheduling a resolution of respect for Mr. Jones and a plaque or picture. They also asked for a dedication page in the Town Plan. Commissioner Kalriess said he would like to see something in the Crescent District dedicated to Mr. Jones. Commissioner Hoovler said that getting the picture to go along with the resolution is important. There was also some discussion about an appropriate feature in the Crescent District that would be fitting for dedication to Mr. Jones. It was decided to try and do this at a regularly scheduled Planning Commission meeting. Ms. Swift offered to draft a resolution of respect. Chairman Vaughan asked that a draft page for the Town Plan be drawn up and presented to the Commission for markup.

Commissioner Kalriess asked who was on the subcommittee for the JLMA. Cliff Vaughan, Ted Kalriess, Brigid Bangert and Chuck Jones. He asked that there be an active session and that someone either be chosen to replace Mr. Jones or put the entire Commission to work on this. They want the committee to meet with the County Planning Commission and should contact Mr. Elgin soon to get this meeting into place. Chairman Vaughan said that he would contact Mr. Elgin. Commissioner Hoovler asked if they could have Jim Clem come talk to the Commission near the end of a future meeting to discuss what would work between the County Planning commission and town Planning Commission. He feels that we need to keep Mr. Clem in the loop.

Commissioner Kalriess said that Mr. Elgin needs to be brought up to speed on the new town plan and what the reasons are for certain decisions reflected in the plan.

Chairman Vaughan said that the discussion of the town plan would be through a formal process for presenting it to the county commission and the Board of Supervisors, and asked what the formal timeframe was. Susan Swift replied that the council needs to adopt it first. She does not advise briefing anyone in the county on the plan until Council has approved it. She suggested that the Commission talk to Council on this. Mr. Kalriess

said that two councilmembers told him to move forward as quickly as possible, and not wait until the plan is adopted. Susan agreed that they could talk process.

Commissioner Wright said the Town Council, in their resolution, offered to support the Planning Commission in their current efforts with the County Planning Commission and any subcommittee to discuss joint land planning and CPAMs. What process do they want to use? Then, as a result, how does the joint planning process begin. Commissioner Kalriess said they need to get together within the next two weeks to discuss this process. Commissioner Hoovler said that all the Commissioners should be involved in this, not just four

Chairman Vaughan said he would look into this and it was recommended that this be put on the next meeting agenda.

ADJOURNMENT

The motion was made to adjourn at 9:00pm

Presented by:

Approved by:

Linda DeFranco, Commission Clerk

Clifton Vaughan, Chairman